

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

AMIRA BERILO, an individual,
Plaintiff,

vs.

HSBC MORTGAGE CORPORATION, USA,
doing business as HSBC BANK USA N.A.;
WELLS FARGO BANK, N.A., doing business
as AMERICA'S SERVICING COMPANY;
NATIONAL DEFAULT SERVICING
CORPORATION; MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS,
INC.; DOE Defendants I through X, inclusive,
and ROE CORPORATIONS A through Z,
inclusive;

Defendants.

Case No.: 2:09-cv-02353-RLH-PAL

O R D E R

(Emergency Motion to Extend Time-#10,
Motion to Dismiss-#15,
Motion to Stay-#25)

Before the Court is Defendant Mortgage Electronic Registration Systems, Inc.'s ("MERS") **Emergency Motion to Extend Time to File Responsive Pleading** (#10), filed December 21, 2009, and Defendants HSBC Bank, USA N.A. and Wells Fargo Bank, N.A.'s **Motion to Dismiss** (#15), filed December 30, 2009.

Also before the Court is MERS's **Motion to Stay All Proceedings** (#25), filed January 14, 2010, and Wells Fargo's Limited Joinder (#30), filed February 5, 2010.

BACKGROUND

In April 2007, Plaintiff Amira Berilo refinanced the real property located at 6723 Oxendale Avenue in Las Vegas, Nevada, through a mortgage loan with SFG Mortgage. Wells Fargo acted as the loan servicer through its servicing branch known as America's Servicing Company. Berilo eventually defaulted on her mortgage payments causing Defendants to record a Notice of Default and Election to sell on June 18, 2009. After Berilo failed to cure the deficiency, Defendants instituted foreclosure proceedings on the property. In October 2009, HSBC Bank recorded a deed of trust and was granted all interest on the property as a result of a trustee's sale.

On November 25, 2009, Berilo commenced this action in the Eighth Judicial District Court for the State of Nevada. On December 11, 2009, Wells Fargo removed the case on the basis of diversity jurisdiction. Although the motions currently before the Court are ripe for adjudication, the Court stays all proceeding in this case for the reasons discussed below.

DISCUSSION

I. Multi-District Litigation

At the end of last year, the United States Judicial Panel on Multi-District Litigation ("Panel") consolidated numerous cases in which plaintiffs allege that MERS engaged in improper business practices when processing home loans. The Panel assigned Judge Teilborg in the District of Arizona to oversee these cases, and he will preside over all issues (discovery, dispositive motions, settlement) except for trials. *In re: Mortgage Electronic Registration Systems (MERS) Litigation*, MDL No. 2119. In its decision to create this MDL litigation, the Panel consolidated nine cases from Nevada, but noted that additional "tag-along" cases with similar factual issues could be added to the list of consolidated cases.

Following the Panel's decision, MERS moved to add numerous "tag-along" cases to the MDL, one of which is the case currently before the Court. The Panel ruled on these motions in a series of three letters issued in December 2009 and January and February 2010. (*See* #31, MDL Conditional Transfer Order, Feb. 16, 2010.) The Panel granted MERS' requests, but only as

1 to those individual claims that “relate to the formation and/or operation of MERS.” (*Id.*) The
2 Panel further indicated that “all claims in these actions that are unrelated to the formation and/or
3 operation of the MERS system are separately and simultaneously remanded” to the district court in
4 which they were first brought. (*Id.*)

5 In light of the Panel’s decision, MERS and the many individual plaintiffs in these
6 cases have filed motions with Judge Teilborg in which they dispute which claims should be part of
7 the MDL and which should be sent back to their original location. Because of the high volume of
8 cases involved in these motions, it will be a number of months until Judge Teilborg has ruled on
9 all of the issues affecting this case. Accordingly, the Court hereby stays all proceedings in this
10 case. The Court will address HSBC Bank and Wells Fargo’s Motion to Dismiss in the event that
11 Judge Teilborg remands claims back to this Court.

12 **II. MERS’s Motion to Extend Time**

13 Although this matter is stayed, the Court grants MERS’s Motion to Extend Time
14 and instructs MERS to file a responsive pleading within fourteen days of the date of this order.

15 **CONCLUSION**

16 Accordingly, and for good cause appearing,

17 IT IS HEREBY ORDERED that all proceedings in this case are STAYED pending
18 an order from Judge Teilborg’s remanding claims back to this Court.

19 IT IS FURTHER ORDERED that MERS shall have fourteen days from the date of
20 this order to file a responsive pleading to Berilo’s claims.

21 Dated: April 15, 2010.

22 
23 _____
24 **ROGER L. HUNT**
25 Chief United States District Judge
26